

Kanzler

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Kanzler. Applicant respectfully traverses the rejections for at least the reasons as follow.

Claim 1 recites an air mattress comprising a mattress pad; a back support to raise a part of the mattress pad; and an air pump assembly built into the mattress pad to inflate the mattress pad and the back support.

In the rejections, the Examiner states the following:

As Kanzler does not depict or describe his control system as being external to his apparatus, Kanzler is considered to disclose an air pump assembly (control system) built into the mattress pad. In the instance that this is not the case, it nevertheless would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a built-in pump assembly in order to reduce the number of components for the apparatus and avoid potential loss of one of the components.

To anticipate a claim, a reference must teach every element of the claim. In this regard, the Federal Circuit has held:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant first notes that the body supporting apparatus 10 comprising inflatable "pneumatic means" is adapted to be removably fitted onto the mattress 11, which is not inflatable. The body supporting apparatus 10 is adjustable between a first attitude for supporting an occupant in a

supine position, as shown in Figs. 1, 2 and 5, and a second attitude for supporting an occupant in a reclining position as shown in Figs. 3 and 4.

The test for anticipation is not that a reference does not explicitly teach to the contrary of the claimed invention, as implied by the Examiner in the statement "[a]s Kanzler does not depict or describe his control system as being external to his apparatus, Kanzler is considered to disclose an air pump assembly (control system) built into the mattress pad." Rather, the test for anticipation is that a claim is anticipated only if each and every element as set forth in the claim is found, ***either expressly or inherently described***, in a single prior art reference.

It is quite clear from the drawings and description of the reference that Kanzler does not expressly teach that the control apparatus is built into body supporting apparatus 10. There is simply no teaching or suggestion of this limitation. Furthermore, it cannot be said that such an arrangement is inherent to the Kanzler teaching. Namely, for an asserted element to be inherent, it must ***necessarily*** be present in the disclosure. See MPEP 2131.01, quoting *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991):

"To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. ***Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.***" [emphasis added]

There is absolutely no reason why the control apparatus is ***necessarily*** built into body supporting apparatus 10.

The Examiner further argues that "[i]n the instance that this is not the case, it nevertheless would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a built-in pump assembly in order to reduce the number of components for the apparatus and avoid potential loss of one of the components."

To the contrary, Figs. 1, 2 and 5 clearly show that the body supporting apparatus 10 is flat for receiving an occupant in supine position when the inflatable chambers are deflated. See also col. 3, lines 62-66 and col. 5, lines 32-44 of Kanzler. If the control apparatus were built into the body supporting apparatus 10, it would present a hard, irregular and uncomfortable protrusion in the surface of the body supporting apparatus 10 when the inflatable chambers were deflated. Applicant therefore submits that Kanzler clearly teaches against such a modification of the body supporting apparatus 10.

For at least the reasons described above, it is Applicant's belief that Kanzler fails to teach or suggest all the limitations of claim 1, and furthermore cannot be modified to teach all the limitations of claim 1. Applicant therefore respectfully requests that the rejection of claim 1 be withdrawn and the claim passed to issue. Insofar as claim 6 depends from claim 1 either directly or indirectly, and therefore incorporate all of the limitations of claim 1, it is Applicant's belief that these claims are also in condition for allowance.

Grudzinskas

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Grudzinskas. Applicant respectfully traverses the rejections for at least the reasons as follow.

In the rejections, the Examiner states:

... Grudzinskas discloses an air mattress comprising: a mattress pad (chair); a back support (inflatable chambers shown with upholstery 133) ...

Applicant first submits that even given their broadest reasonable interpretation, the term "mattress pad" differs from "chair". As reference to any dictionary will show, the plain meaning of these terms is simply different.

Furthermore, Applicant emphasizes that claim 1 recites an inflatable mattress comprising 1) a mattress pad and 2) a back support. Applicant notes that in the rejections, the Examiner appears to rely on the "chair" of Grudzinskas to teach both the "inflatable mattress" and the "mattress pad" of claim 1. However, as the ***mattress pad is one element of the inflatable mattress*** of claim 1, these terms are not coextensive. In fact, Grudzinskas teaches a chair that,

with the exception of the inflatable chambers in the back support area, is not inflatable. See Fig. 1 of Grudzinskas.

In contrast, the air pump assembly of claim 1 is ***built into the mattress pad to inflate the mattress pad*** and the back support. Thus, the mattress pad, in which the air pump assembly is built, is inflatable, and the air pump assembly inflates both the mattress pad and the back support.

In the rejections, the Examiner argues that the mattress pad of claim 1 reads onto the chair of Grudzinskas, while the back support of claim 1 reads onto the inflatable chambers of cushion 12. However, cushion 12 is the only inflatable element in Grudzinskas' apparatus. Thus, Grudzinskas clearly fails to teach that the air pump assembly is ***built into the mattress pad to inflate the mattress pad*** and the back support.

More specifically, if one takes the position in the office action where the chair is the mattress pad of claim 1 and the inflatable chambers are the back support of claim 1, where the mattress pad and back support are two different elements of an inflatable mattress, then the chair is a separate element than the inflatable chambers. Compressor 22 is built into the chair, which is not inflatable.

For at least the reasons described above, it is Applicant's belief that Grudzinskas fails to teach or suggest all the limitations of claim 1. Applicant therefore respectfully requests that the rejection of claim 1 be withdrawn and the claim passed to issue.

Wilhoit

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wilhoit. Applicant respectfully traverses the rejections for at least the reasons as follow.

Applicant first submits that even given their broadest reasonable interpretation, the term "mattress pad" differs from "pillow". As reference to any dictionary will show, the plain meaning of these terms is simply different.

Furthermore, as noted above, Applicant emphasizes that claim 1 recites an inflatable mattress comprising 1) a mattress pad and 2) a back support. Applicant notes that in the rejections, the Examiner appears to rely on the pillow 10 of Wilhoit to teach both the "inflatable mattress" and the "mattress pad" of claim 1. However, as the **mattress pad is one element of the inflatable mattress** of claim 1, these terms are not coextensive. In fact, contour pillow 10 comprises a inflatable chambers 16, 18, and 20 encased in a resilient foam cushion 14. See Figs. 2-3 and col. 4, lines 41-54 of Wilhoit.

The air pump assembly of claim 1 is **built into the mattress pad to inflate the mattress pad** and the back support. Thus, the mattress pad, in which the air pump assembly is built, is inflatable, and the air pump assembly inflates both the mattress pad and the back support.

In the rejections, the Examiner argues that the mattress pad of claim 1 reads onto pillow 10 of Wilhoit, while the back support of claim 1 reads onto one of the inflatable chambers 16, 18 or 20. It is therefore evident that the Examiner distinguishes between the inflatable chambers, which make up the back support, and the rest of the pillow, which is taken to be the "mattress pad."

However, as noted above, pillow 10 cannot be both the inflatable mattress and the mattress pad of claim 1. Furthermore, the control system 12 comprising an air pump is clearly not built into any of inflatable chambers 16, 18, or 20. Thus, Wilhoit clearly fails to teach that the air pump assembly is **built into the mattress pad to inflate the mattress pad** and the back support. More specifically, control system 12 is built into the resilient cushion 14, which is not inflatable.

For at least the reasons described above, it is Applicant's belief that Grudzinskas fails to teach or suggest all the limitations of claim 1. Applicant therefore respectfully requests that the rejection of claim 1 be withdrawn and the claim passed to issue.

Collymore in view of Wilhoit

Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being obvious over Collymore in view of Wilhoit. Applicant respectfully traverses the rejections for at least the reasons as follow.

MPEP 2142 reads in part:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In connection with the third criteria, MPEP 2143.03 goes on the state:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

In the rejections, the Examiner acknowledges that Collymore does not teach an air pump assembly built into a mattress pad. Instead, the Examiner relies upon Wilhoit to teach this feature.

For the reasons described above, Applicant submits that Wilhoit does not teach an air pump assembly ***built into the mattress pad to inflate the mattress pad***, as recited in claim 1. To the contrary, the air pump of Wilhoit is built into foam cushion 14, which is not inflatable.

Thus, even when combined, Collymore and Wilhoit do not teach or suggest all the limitations of claim 1. For at least this reason, a *prima facie* case of obviousness cannot be established in connection with claim 1. Insofar as claim 6 depends from claim 1 either directly or indirectly, and therefore incorporate all of the limitations of claim 1, it is Applicant's belief that these claims are also in condition for allowance.

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Withdrawn Claims 2-5

Claim 1 is believed to be generic. Furthermore, withdrawn claims 2-5 depend from claim 1.

Applicant respectfully requests consideration of the additional species claims 2-5 as provided by 37 C.F.R. 1.141.

Conclusion

For the reasons described above, the Applicant believes that the application is now in condition for allowance and respectfully requests so.

Respectfully submitted,



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